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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: 23ANDME, INC., CUSTOMER DATA
SECURITY BREACH LITIGATION

Case No. 24-md-03098-EMC

**23ANDME'S STATEMENT REGARDING
LITIGATION STATUS AND EVIDENCE
PRESERVATION PURSUANT TO
PRETRIAL ORDER NO. 1**

In accordance with the Court's First Pretrial Order (ECF No. 11), Defendants 23andMe, Inc., 23andMe Holding Co., and 23andMe Pharmacy Holdings, Inc. (collectively, "Defendants" or "23andMe") submit this statement regarding the status of litigation pending, including the status of all potential tag-along cases, and the steps 23andMe has taken to preserve evidence. *See* ECF No. 11.

I. Status of Pending Litigation

In the beginning of October 2023, 23andMe learned that certain customer profile information that users had opted into sharing through the DNA Relatives feature was accessed from individual

23andMe.com user accounts without authorization (the “Incident”). After 23andMe discovered and promptly disclosed the Incident to law enforcement, the public, and all 23andMe users, forty-three (43) lawsuits were filed in state and federal courts around the country in which plaintiffs assert claims allegedly arising from the Incident.¹ Most of the federal cases were filed in the Northern District of California. However, three cases were filed outside of the Northern District of California, one in the Northern District of Illinois, one in California state court (which 23andMe subsequently removed to the Central District of California), and one in Illinois state court (which 23andMe subsequently removed to the Northern District of Illinois).²

Since the Judicial Panel on Multidistrict Litigation (“JPML”) ordered transfer and coordination of the federal cases on April 12, 2024, all of federal cases filed outside of the Northern District of California were transferred to this Court and closed in their original venues. *See Bacus v. 23andMe, Inc.*, 1:23-cv-16828 (N.D. Ill. Nov. 13, 2023) (recognizing civil case terminated on April 11, 2024 pursuant to MDL 3098); *Hu v. 23andMe, Inc.*, 1:23-cv-17079 (N.D. Ill. Dec. 26, 2023) (recognizing civil case terminated on April 22, 2024 pursuant to MDL 3098); *Gill v. 23andMe, Inc.*, 8:23-cv-02387 (C.D. Cal. Oct. 25, 2023) (transferring on April 22, 2024 pursuant to MDL 3098).

Nine federal actions in which plaintiffs assert related claims arising from the same alleged data security incident have been filed since the JPML’s April 12, 2024 order. *See, e.g., Hu v. 23andMe, Inc.*, 1:23-cv-17079 (N.D. Ill. Dec. 26, 2023); *Paddy, et al., v. 23andMe, Inc.*, 3:23-cv-06698 (N.D. Cal. Dec. 29, 2023); *Picha v. 23andMe, Inc.*, 3:23-cv-06719 (N.D. Cal. Dec. 29, 2023); *Melvin, J.L. v. 23andMe,*

¹ A complete list of all the actions filed to date arising from the Incident is included in Exhibit A.

² In addition to the federal cases, three cases in which plaintiffs assert claims arising from the Incident are pending in California state courts: one putative class action in Santa Clara County Superior Court, *Vasquez v. 23andMe, Inc.*, Case No. 23-cv-424996, one in San Francisco County Superior Court, *Morgenstern v. 23andMe Holding Co., 23andMe, Inc.*, Case No. CGC-23-610816 (in which plaintiffs are represented by counsel for plaintiffs in *Scott v. 23andMe Holding Co., 23andMe, Inc.*), and one consolidated single-plaintiff suit filed in Santa Clara County Superior Court, *Wilkus et al v. 23andMe, Inc.*, Case No. 24-cv-429673.

1 *Inc.*, 3:24-cv-00487 (N.D. Cal. Jan. 26, 2024); *MacMillan v. 23andMe, Inc.*, 3:24-cv-00555 (N.D. Cal. Jan.
 2 30, 2024); *Stanford v. 23andMe, Inc.*, 5:24-cv-00603 (N.D. Cal. Jan. 31, 2024); *Thompson v. 23andMe,*
 3 *Inc.*, 3:24-cv-01418 (N.D. Cal. March 8, 2024); *Brown v. 23andMe, Inc.*, 3:24-cv-1662 (N.D. Cal. Mar.
 4 18, 2024); *Roe, Public v. 23andMe, Inc.* 3:24-cv-02319 (N.D. Cal. April 18, 2024). 23andMe has filed
 5 notices of tag-along actions for all these federal actions. Pursuant to the Court's First Pretrial Order dated
 6 April 23, 2024, all nine "tag-along actions" have been transferred and reassigned to this Court. ECF No.
 7 11. Other than the nine related "tag-along" actions that have already been reassigned to this Court,
 8 23andMe is not aware of any additional tag-along actions.

9 II. 23andMe's Preservation Efforts

10 Upon learning of the unauthorized access, 23andMe promptly began investigating the matter and
 11 notified customers and law enforcement of the security incident. In regards to preservation, 23andMe:

- 12 • Sent document preservation notices detailing the subject of documents to preserve,
 13 categories of documents to preserve, and mandatory steps to preserve documents in all
 14 formats that they may be stored on October 7, 2023 to individuals with access to
 15 information, documents, and/or communications, including text messages, related to the
 16 Incident;
- 17 • Since October 7, 2023, 23andMe has broadened the scope of employees subject to the
 18 preservation hold to encompass more individuals with access to documents, information,
 19 and/or communications related to plaintiffs' allegations in the lawsuits thereafter filed and
 20 as 23andMe's investigation into the Incident continued;
- 21 • Upon discovery of the Incident, 23andMe immediately disabled all document retention
 22 protocols and manually overrode at an administrative level any settings on its electronic
 23 document storage and communications systems that would have allowed individuals to
 24 permanently delete any documents, information, or communications stored by 23andMe.

25 By preserving all potentially relevant evidence and information, 23andMe does not concede that
 26 such material is discoverable in this matter, nor does it waive any claim of privilege or other protection by
 27 so preserving.

Respectfully submitted,

Dated: May 24, 2024

By: /s/ Ian C. Ballon

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